

**Subsidiary Body for Implementation****Report of the Subsidiary Body for Implementation on its
thirty-fifth session, held in Durban from 28 November to
3 December 2011**

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I. Opening of the session

(Agenda item 1)

1. The thirty-fifth session of the Subsidiary Body for Implementation (SBI) was held at the International Convention Centre and Durban Exhibition Centre in Durban, South Africa, from 28 November to 3 December 2011.
2. The Chair of the SBI, Mr. Robert Owen-Jones (Australia), opened the session and welcomed all Parties and observers. He also welcomed Mr. Samuel Ortiz Basualdo (Argentina) as Vice-Chair of the SBI and Mr. Petrus Muteyauli (Namibia) as Rapporteur.

II. Organizational matters

(Agenda item 2)

A. Adoption of the agenda

(Agenda item 2(a))

3. At its 1st meeting, on 28 November, the SBI considered a note by the Executive Secretary containing the provisional agenda and annotations (FCCC/SBI/2011/8). At the same meeting, the SBI adopted the agenda as follows, with sub-item 4(b) held in abeyance:
 1. Opening of the session.
 2. Organizational matters:
 - (a) Adoption of the agenda;
 - (b) Organization of the work of the session;
 - (c) Election of officers other than the Chair;
 - (d) Election of replacement officers.
 3. National communications and greenhouse gas inventory data from Parties included in Annex I to the Convention:
 - (a) Status of submission and review of fifth national communications from Parties included in Annex I to the Convention;
 - (b) Compilation and synthesis of fifth national communications from Parties included in Annex I to the Convention;
 - (c) Compilation and synthesis of supplementary information incorporated in fifth national communications from Parties included in Annex I to the Convention that are also Parties to the Kyoto Protocol and submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol;
 - (d) Further implementation of Article 12, paragraph 5, of the Convention;
 - (e) Report on national greenhouse gas inventory data from Parties included in Annex I to the Convention for the period 1990–2009;
 - (f) Annual compilation and accounting report for Annex B Parties under the Kyoto Protocol for 2011.

4. National communications from Parties not included in Annex I to the Convention:
 - (a) Work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention;
 - (b) Information contained in national communications from Parties not included in Annex I to the Convention;¹
 - (c) Further implementation of Article 12, paragraph 5, of the Convention;
 - (d) Provision of financial and technical support.
5. Financial mechanism of the Convention:
 - (a) Report of the Global Environment Facility to the Conference of the Parties and additional guidance to the Global Environment Facility;
 - (b) Least Developed Countries Fund: support for the implementation of elements of the least developed countries work programme other than national adaptation programmes of action;
 - (c) Other matters.
6. Matters relating to Article 4, paragraphs 8 and 9, of the Convention:
 - (a) Progress on the implementation of decision 1/CP.10;
 - (b) Matters relating to the least developed countries.
7. National adaptation plans:²
 - (a) A process to enable least developed country Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing national adaptation programmes of action;³
 - (b) Modalities and guidelines for least developed country Parties, and other developing country Parties to employ the modalities formulated to support national adaptation plans.⁴
8. Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity⁵
 - Activities to be undertaken under the work programme.
9. Matters relating to Article 3, paragraph 14, of the Kyoto Protocol.
10. Forum on the impact of the implementation of response measures at the thirty-fourth and thirty-fifth sessions of the subsidiary bodies, with the objective of developing a work programme under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to address these impacts, with a view to adopting, at the

¹ As there was no consensus to include this sub-item on the agenda, it was held in abeyance. On a proposal by the Chair, the SBI decided to include this sub-item on the provisional agenda for its thirty-sixth session with an appropriate footnote.

² Decision 1/CP.16, paragraphs 15–18.

³ Decision 1/CP.16, paragraph 15, 17 and 18.

⁴ Decision 1/CP.16, paragraphs 15–18.

⁵ Decision 1/CP.16, paragraphs 26–29.

seventeenth session of the Conference of the Parties, modalities for the operationalization of the work programme and a possible forum on response measures.⁶

11. Development and transfer of technologies.
12. Capacity-building under the Convention.
13. Capacity-building under the Kyoto Protocol.
14. Report of the administrator of the international transaction log under the Kyoto Protocol.
15. Amendment of the Kyoto Protocol in respect of procedures and mechanisms relating to compliance.
16. Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism.
17. Administrative, financial and institutional matters:
 - (a) Budget performance for the biennium 2010–2011;
 - (b) Continuing review of the functions and operations of the secretariat;
 - (c) Implementation of the Headquarters Agreement.
18. Other matters.
19. Report on the session.

4. The floor was opened for statements at the resumed 1st meeting of the SBI on 29 November. Statements were made on behalf of the European Union and its member States, the Group of 77 and China, the least developed countries (LDCs), the Alliance of Small Island States (AOSIS), Parties from the Central American Integration System (SICA) and the African Group. In addition, statements were made on behalf of business and industry non-governmental organizations (NGOs), indigenous peoples' organizations, trade union NGOs, women and gender NGOs, and youth NGOs.

B. Organization of the work of the session

(Agenda item 2(b))

5. The SBI considered this sub-item at the resumed session of its 1st meeting, at which the Chair drew attention to the proposed programme of work posted on the UNFCCC website. On a proposal by the Chair, the SBI agreed to proceed on the basis of that programme of work.

C. Election of officers other than the Chair

(Agenda item 2(c))

6. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting held on 3 December. At the resumed 1st meeting, the Chair recalled rule 27 of the draft rules of procedure being applied, whereby the SBI is expected to elect its Vice-Chair and Rapporteur.

7. At the 2nd meeting, as nominations for the post of Vice-Chair and Rapporteur had not yet been received, the SBI requested the Conference of the Parties (COP), as an

⁶ Decision 1/CP.16, paragraph 93.

exception to rule 27, paragraph 6, of the draft rules of procedure being applied, to elect the Vice-Chair and the Rapporteur of the SBI at the closing plenary of its seventeenth session on 9 December.⁷

D. Election of replacement officers

(Agenda item 2(d))

8. No election of replacement officers was held.

III. National communications and greenhouse gas inventory data from Parties included in Annex I to the Convention

(Agenda item 3)

A. Status of submission and review of fifth national communications from Parties included in Annex I to the Convention

(Agenda item 3(a))

9. The SBI considered this sub-item at its resumed 1st meeting and took note of document FCCC/SBI/2011/INF.8.

B. Compilation and synthesis of fifth national communications from Parties included in Annex I to the Convention

(Agenda item 3(b))

Compilation and synthesis of supplementary information incorporated in fifth national communications from Parties included in Annex I to the Convention that are also Parties to the Kyoto Protocol and submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol

(Agenda item 3(c))

Further implementation of Article 12, paragraph 5, of the Convention

(Agenda item 3(d))

10. The SBI considered sub-items 3(b–d) at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/INF.1 and Add.1 and 2, and FCCC/SBI/2011/INF.2.

11. At its resumed 1st meeting, the SBI agreed to consider these sub-items in a contact group co-chaired by Ms. Alma Jean (Saint Lucia) and Mr. Kiyoto Tanabe (Japan).

12. At the 2nd meeting, Ms. Jean reported on the contact group's consultations. As work could not be completed at this session, the SBI agreed to continue consideration of these

⁷ The COP elected Mr. Muteyauli as Rapporteur, who will serve for the thirty-sixth and thirty-seventh sessions of the SBI. The President of the COP urged groups to continue their consultations on the election of the Vice-Chair of the SBI. In accordance with rule 22, paragraph 2, of the draft rules of procedure being applied, the current Vice-Chair will remain in office until a successor is elected at the thirty-sixth session of the SBI.

sub-items at its thirty-sixth session and, in accordance with rule 16 of the draft rules of procedure being applied, to include these sub-items on the provisional agenda for that session.

C. Report on national greenhouse gas inventory data from Parties included in Annex I to the Convention for the period 1990–2009
(Agenda item 3(e))

13. The SBI considered this sub-item at its resumed 1st meeting and took note of document FCCC/SBI/2011/9.

D. Annual compilation and accounting report for Annex B Parties under the Kyoto Protocol for 2011
(Agenda item 3(f))

1. Proceedings

14. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. At its resumed 1st meeting, the SBI took note of documents FCCC/KP/CMP/2011/8 and Add.1.

15. At its 2nd meeting, the SBI considered and adopted the conclusions below.⁸

2. Conclusions

16. The SBI, at its thirty-fifth session, agreed to recommend draft conclusions on this matter for adoption by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) at its seventh session (for the text of the conclusions, see FCCC/SBI/2011/L.26).

IV. National communications from Parties not included in Annex I to the Convention

(Agenda item 4)

A. Work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention

(Agenda item 4(a))

1. Proceedings

17. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/10 and Add.1 and 2. A statement was made on behalf of the Group of 77 and China.

18. At the resumed 1st meeting, the Chair invited Ms. Sangchan Limjirakan (Thailand), Chair of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention (CGE), to make a statement.

19. At the same meeting, the SBI agreed to consider this sub-item together with sub-items 4(c) and (d) in a contact group co-chaired by Ms. Jean and Mr. Tanabe.

⁸ Adopted as document FCCC/SBI/2011/L.26.

20. At the 2nd meeting, Mr. Tanabe reported on the contact group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁹

2. Conclusions

21. The SBI welcomed the progress report on the work of the CGE.¹⁰

22. The SBI also welcomed the report of the CGE on the workshop on facilitating the development and long-term sustainability of processes, and the establishment and maintenance of national technical teams, for the preparation of national communications, including greenhouse gas (GHG) inventories, on a continuous basis, held on 20 and 21 June 2011, in Bonn, Germany. The SBI noted the importance of the matters under discussion and welcomed the recommendations from the workshop on the common challenges and best practices, options available to Parties and key elements for facilitating the development and long-term sustainability of the national communication processes.¹¹

23. The SBI expressed its gratitude to the Government of Chile for hosting the 5th meeting of the CGE and the CGE GHG inventory hands-on training workshop for the Latin America and Caribbean region, organized in collaboration with the National Communications Support Programme and the Technical Support Unit for the Intergovernmental Panel on Climate Change (IPCC) Task Force on National GHG Inventories, held in Santiago, Chile, on 5–9 September 2011.¹² It also welcomed the report on this workshop and the recommendations from the participants for the improvement of future training workshops and the training materials of the CGE. The SBI encouraged the CGE to take into account those recommendations in the conduct of the remaining CGE regional training workshops on national GHG inventories and the update of its GHG training materials.

24. The SBI encouraged Parties and/or relevant organizations, as appropriate, in providing assistance to Parties not included in Annex I to the Convention (non-Annex I Parties), to take into consideration the recommendations provided by the workshops, as contained in document FCCC/SBI/2011/10/Add.1 and 2.

25. The SBI reiterated its encouragement to Parties to take into account the recommendations made by the CGE on elements to be considered in a future revision of the "Guidelines for the preparation of national communications from Parties not included in Annex I to the Convention" contained in its progress report¹³ submitted to the SBI at its thirty-fourth session.

26. The SBI welcomed the planned training activities¹⁴ to be organized by the CGE as part of its work programme and requested the CGE to make every effort to conduct the planned regional training workshops on GHG inventories, mitigation, and vulnerability and adaptation in 2012, subject to the availability of resources.

27. The SBI took note of the estimated budgetary implications to implement the ambitious work programme of the CGE, as provided by the secretariat.

28. The SBI thanked the European Union, Japan, the Technical Support Unit for the IPCC Task Force on National GHG Inventories and the National Communications Support Programme for their financial contribution to the work of the CGE, and also those Parties that committed to contributing financial support for the work of the CGE. The SBI urged

⁹ Adopted as document FCCC/SBI/2011/L.31.

¹⁰ FCCC/SBI/2011/10.

¹¹ FCCC/SBI/2011/10/Add.1.

¹² FCCC/SBI/2011/10/Add.2.

¹³ FCCC/SBI/2011/5/Rev.1 and FCCC/SBI/2011/5/Add.1.

¹⁴ FCCC/SBI/2011/10, paragraphs 16 and 17.

Parties included in Annex II to the Convention to provide financial resources to enable the CGE to implement its planned activities for 2012 as soon as possible. It also encouraged bilateral, multilateral and international organizations to support the work of the CGE.

29. The SBI reiterated the invitation to the CGE, in implementing its work programme, to take into account the current and future needs of non-Annex I Parties and to take into consideration the provisions under the Convention and the relevant decisions of the COP.¹⁵

30. In accordance with decision 5/CP.15, paragraph 6, the SBI initiated, but did not conclude, consideration on the review of the term and mandate of the CGE and the need for the continuation of the group, and decided to recommend a draft decision¹⁶ on this subject for adoption by the COP at its seventeenth session (for the text of the draft decision, see FCCC/SBI/2011/L.31/Add.1).

31. The SBI requested that the actions of the secretariat called for in these conclusions be undertaken subject to the availability of financial resources.

B. Information contained in national communications from Parties not included in Annex I to the Convention

(Agenda item 4(b) *held in abeyance*)

C. Further implementation of Article 12, paragraph 5, of the Convention

(Agenda item 4(c))

1. Proceedings

32. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting (see para. 19 above). At its 2nd meeting, the SBI considered and adopted the conclusions below.¹⁷

2. Conclusions

33. The SBI agreed to continue consideration of this sub-item at its thirty-sixth session.

D. Provision of financial and technical support

(Agenda item 4(d))

1. Proceedings

34. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting (see para. 19 above). It had before it documents FCCC/CP/2011/7 and Corr.1 and Add.1 and 2, FCCC/SBI/2011/INF.9 and FCCC/SBI/2011/MISC.4. Representatives of four Parties made statements, including one on behalf of the Group of 77 and China.

35. At the resumed 1st meeting, the Chair of the SBI invited the representative of the secretariat of the Global Environment Facility (GEF) to make a statement.

36. At its 2nd meeting, the SBI considered and adopted the conclusions below.¹⁸

¹⁵ FCCC/SBI/2010/27, paragraph 33, and FCCC/SBI/2011/7, paragraph 36.

¹⁶ For the text as adopted, see decision 14/CP.17.

¹⁷ Adopted as document FCCC/SBI/2011/L.32.

¹⁸ Adopted as document FCCC/SBI/2011/L.33.

2. Conclusions

37. The SBI took note of the information provided by the secretariat of the GEF on financial support provided by the GEF for the preparation of national communications from non-Annex I Parties.¹⁹

38. The SBI invited the GEF to continue to provide detailed, accurate, timely and complete information on its activities relating to the preparation of national communications by non-Annex I Parties, in accordance with decision 10/CP.2, paragraph 1(b), including information on the dates of approval of funding and disbursement of funds. It also invited the GEF to continue to provide information on the approximate date of completion of the draft national communications and an approximate date of submission of the national communications to the secretariat for consideration by the SBI at its thirty-sixth session.

39. The SBI noted the submission made by a non-Annex I Party on the detailed costs it incurred, including in-kind contributions, for the preparation of its most recent national communication and on the financial resources received through the GEF as invited by the SBI at its thirty-fourth session.²⁰ It invited other non-Annex I Parties that have not already done so to submit their views on this issue by 5 March 2012. The SBI requested the secretariat to compile these submissions into a miscellaneous document for consideration by the SBI at its thirty-sixth session.

40. The SBI encouraged non-Annex I Parties to submit project proposals for the funding of their subsequent national communications before completion of their current national communications, in order to avoid the lack of continuity in project financing.

41. The SBI reiterated its recommendation²¹ to the COP at its sixteenth session to request the GEF to continue to provide funds for technical support for the preparation of national communications of non-Annex I Parties, similar to that provided by the National Communications Support Programme, recognizing that the costs of such technical support are not deducted from the funds provided to non-Annex I Parties for the preparation of their national communications. It invited the GEF to report on this matter in its report to the COP at its eighteenth session.

42. The SBI recommended that the COP, at its seventeenth session, request the GEF to continue to work with its implementing agencies to further simplify its procedures and improve the effectiveness and efficiency of the process through which non-Annex I Parties receive funding to meet their obligations under Article 12, paragraph 1, of the Convention, with the aim of ensuring the timely disbursement of funds to meet the agreed full costs incurred by developing country Parties in complying with these obligations and to avoid gaps between enabling activities of current and subsequent national communications, recognizing that the process of preparation of national communications is a continuous cycle.

43. The SBI acknowledged the usefulness of the national GHG inventory software for non-Annex I Parties, and requested the secretariat to upgrade the software and make it available to non-Annex I Parties by June 2013. The SBI took note of the estimated budgetary implications to implement this request as provided by the secretariat and requested that the actions of the secretariat be undertaken subject to the availability of financial resources.

¹⁹ FCCC/SBI/2011/INF.9 and FCCC/CP/2011/7 and Add.1.

²⁰ FCCC/SBI/2011/7, paragraph 48.

²¹ FCCC/SBI/2010/27, paragraph 49.

44. The SBI also noted with appreciation that, as at 2 December 2011, 141 initial, 60 second, two third and one fourth national communications from non-Annex I Parties had been submitted. It also noted that 66 non-Annex I Parties are expected to submit their second national communications by the end of 2012.

V. Financial mechanism of the Convention

(Agenda item 5)

A. Report of the Global Environment Facility to the Conference of the Parties and additional guidance to the Global Environment Facility

(Agenda item 5(a))

1. Proceedings

45. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/CP/2011/7 and Corr.1 and Add.1 and 2 and FCCC/SBI/2011/MISC.5. Representatives of two Parties made a statement, including one on behalf of the LDCs.

46. At the resumed 1st meeting, the Chair of the SBI invited the representative of the secretariat of the GEF to make a statement. At the same meeting, the SBI agreed to consider this sub-item together with sub-items 5(b) and (c) in a contact group co-chaired by Ms. Ana Fornells de Frutos (Spain) and Mr. Lavaasa Malua (Samoa).

47. At the 2nd meeting, Mr. Malua reported on the contact group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.²²

2. Conclusions

48. The SBI took note of the report²³ of the GEF to the COP. In addition, it considered the views submitted by Parties on elements to be taken into account in developing guidance to the GEF.²⁴

49. The SBI decided to recommend a draft decision²⁵ on this matter for adoption by the COP at its seventeenth session (for the text of the decision, see document FCCC/SBI/2011/L.41/Add.1).

B. Least Developed Countries Fund: support for the implementation of elements of the least developed countries work programme other than national adaptation programmes of action

(Agenda item 5(b))

1. Proceedings

50. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting (see para. 46 above). It had before it documents FCCC/CP/2011/7 and Corr.1 and Add.1 and 2, FCCC/SBI/2010/17, FCCC/SBI/2010/26 and FCCC/SBI/2010/MISC.9. A statement was made on behalf of the LDCs.

²² Adopted as document FCCC/SBI/2011/L.41.

²³ FCCC/CP/2011/7 and Add.1 and 2.

²⁴ FCCC/SBI/2011/MISC.5.

²⁵ For the text as adopted, see decision 11/CP.17.

51. At its 2nd meeting, the SBI considered and adopted the conclusions below.²⁶

2. Conclusions

52. The SBI continued its consideration of the request of the COP contained in decision 5/CP.14, and reiterated in decision 5/CP.16, for the GEF to facilitate the implementation of the remaining elements of the LDCs work programme.

53. The SBI took note of the report of the GEF to the COP containing information on support provided under the Least Developed Countries Fund (LDCF).²⁷

54. The SBI decided to recommend a draft decision²⁸ on this matter for adoption by the COP at its seventeenth session (for the text of the decision, see FCCC/SBI/2011/L.40/Add.1).

C. Other matters

(Agenda item 5(c))

1. Proceedings

55. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting (see para. 46 above). It had before it documents FCCC/CP/2011/7 and Corr.1 and Add.1 and 2, FCCC/SBI/2011/INF.10 and FCCC/SBI/2011/MISC.6 and Add.1. Representatives of two Parties made statements.

56. At its 2nd meeting, the SBI considered and adopted the conclusions below.²⁹

2. Conclusions

57. The SBI took note of the information submitted by Parties³⁰ and the information compiled by the secretariat³¹ on the support provided to developing country Parties on activities undertaken to strengthen existing and, where needed, establish national and regional systematic observation and monitoring networks.

58. The SBI also noted the report of the GEF³² to the COP affirming that its mandate under the LDCF and the Special Climate Change Fund (SCCF) covers the activities identified in decision 5/CP.7, paragraph 7(a)(iv), and providing information on projects it supported relating to systematic observation and monitoring networks.

59. The SBI recommended that the COP, at its seventeenth session, request the GEF, as an operating entity of the financial mechanism of the Convention, under its mandate for the LDCF and the SCCF, to continue to provide financial resources to developing countries to strengthen existing and, where needed, establish national and regional systematic observation and monitoring networks.

²⁶ Adopted as document FCCC/SBI/2011/L.40.

²⁷ FCCC/CP/2011/7.

²⁸ For the text as adopted, see decision 9/CP.17.

²⁹ Adopted as document FCCC/SBI/2011/L.39.

³⁰ FCCC/SBI/2011/MISC.6.

³¹ FCCC/SBI/2011/INF.10.

³² FCCC/CP/2011/7.

VI. Matters relating to Article 4, paragraphs 8 and 9, of the Convention

(Agenda item 6)

A. Progress on the implementation of decision 1/CP.10

(Agenda item 6(a))

60. The SBI considered this sub-item at its 1st and 2nd meetings. It had before it documents FCCC/SBI/2011/INF.11 and FCCC/SBI/2011/INF.12. Representatives of five Parties made statements.

61. At its 1st meeting, the SBI agreed to consider this item in informal consultations facilitated by Mr. Ortiz Basualdo. At its 2nd meeting, Mr. Ortiz Basualdo reported on the consultations. As work could not be completed at this session, the SBI agreed to continue consideration of this sub-item at its thirty-sixth session and, in accordance with rule 16 of the draft rules of procedure being applied, to include this sub-item on the provisional agenda for that session.

B. Matters relating to the least developed countries

(Agenda item 6(b))

1. Proceedings

62. The SBI considered this sub-item at its 1st and 2nd meetings. It had before it documents FCCC/SBI/2011/11 and FCCC/TP/2011/7. A representative of one Party made a statement on behalf of the LDCs.

63. At the 1st meeting, the Chair of the SBI invited Ms. Pepetua Latasi (Tuvalu), Chair of the Least Developed Countries Expert Group (LEG), to make a statement.

64. At the same meeting, the SBI agreed to consider this item in informal consultations facilitated by Mr. Rence Sore (Solomon Islands). As Mr. Sore was unable to attend the initial part of the session, Mr. Mamadou Honadia (Burkina Faso) was invited to facilitate these consultations and reported on them at the 2nd meeting of the SBI. At the same meeting, the SBI considered and adopted the conclusions below.³³

2. Conclusions

65. The SBI took note of the oral report by the Chair of the LEG, and welcomed the report on the twentieth meeting of the LEG, held in Vientiane, Lao People's Democratic Republic, from 12 to 14 September 2011.³⁴

66. The SBI thanked the Government of the Lao People's Democratic Republic for hosting the meeting and expressed its gratitude to the Governments of Canada and Norway for providing financial resources in support of the work of the LEG.

67. The SBI welcomed the submission of 46 national adaptation programmes of action (NAPAs) to the secretariat as at 3 December 2011. It noted the important role played by the LEG in assisting LDC Parties with the preparation of NAPAs, and invited the LEG to continue to assist the LDCs that have not yet completed their NAPAs to do so and submit these as soon as possible, in collaboration with the GEF and its agencies.

³³ Adopted as document FCCC/SBI/2011/L.22.

³⁴ FCCC/SBI/2011/11.

68. The SBI also welcomed the submission of NAPA projects to the GEF for the funding of implementation under the LDCF by the 46 countries that had completed the preparation of their NAPAs as at 3 December 2011.

69. The SBI expressed its appreciation to the LEG for the progress it has made under its work programme for 2011–2012.³⁵ It welcomed the technical paper on identification and implementation of medium- and long-term adaptation activities in LDCs,³⁶ and the publication of *Best Practices and Lessons Learned in Addressing Adaptation in the Least Developed Countries through the National Adaptation Programme of Action Process*,³⁷ as well as the other LEG outputs in 2011.

70. The SBI encouraged the LEG to organize the regional training workshops referred to in the work programme of the LEG in close collaboration with relevant organizations, agencies and regional centres, with the aim to, inter alia:

(a) Address key issues and share technical guidance and tools related to implementation, revision and update of NAPAs;

(b) Facilitate the application by LDCs of new approaches such as the programmatic approach in the implementation of NAPAs;

(c) Strengthen the capacity of LDCs to address medium- and long-term adaptation;

(d) Facilitate the integration of gender considerations and considerations regarding vulnerable communities in the implementation of NAPAs;

(e) Serve as a means of sharing the best practices and lessons learned at the regional level.

71. The SBI requested the LEG to keep it informed of the efforts of the LEG in implementing its work programme over the period 2011–2012.

72. The SBI invited Parties in a position to do so to continue to provide resources in support of the implementation of the work programme of the LEG, including resources for the training workshops mentioned in the work programme of the LEG for 2011–2012.

73. The SBI agreed to consider, at its thirty-sixth session, the matter of inviting the GEF, as an operating entity of the financial mechanism of the Convention operating the LDCF, to support, if sufficient voluntary funding has not been provided from bilateral sources, the organization, under the guidance of the LEG, of the regional training workshops mentioned in the work programme of the LEG for 2011–2012.

³⁵ FCCC/SBI/2011/4, annex I. A detailed version of the work programme, including specific objectives, expected outcomes and a timeline, is available on the UNFCCC website at <http://www.unfccc.int/5977>.

³⁶ FCCC/TP/2011/7.

³⁷ http://unfccc.int/resource/docs/publications/ldc_publication_bbll_2011.pdf.

VII. National adaptation plans³⁸

(Agenda item 7)

A process to enable least developed country Parties to formulate and implement national adaptation plans, building upon their experience in preparing and implementing national adaptation programmes of action³⁹

(Agenda item 7(a))

Modalities and guidelines for least developed country Parties, and other developing country Parties to employ the modalities formulated to support national adaptation plans⁴⁰

(Agenda item 7(b))

1. Proceedings

74. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/12, FCCC/SBI/2011/13 and FCCC/SBI/2011/MISC.7. Representatives of 11 Parties made statements, including statements on behalf of the LDCs, the Group of 77 and China and the European Union and its member States.

75. At its resumed 1st meeting, the SBI agreed to consider this item in informal consultations facilitated by Mr. Owen-Jones.

76. At the 2nd meeting, Mr. Owen-Jones reported on the consultations. At the same meeting, the SBI considered and adopted the conclusions below, as amended.⁴¹

2. Conclusions

77. The SBI, at its thirty-fifth session, decided to recommend the draft decision as contained in the annex to document FCCC/SBI/2011/L.36, for consideration and finalization by the COP at its seventeenth session.⁴²

³⁸ Decision 1/CP.16, paragraphs 15–18.

³⁹ Decision 1/CP.16, paragraph 15, 17 and 18.

⁴⁰ Decision 1/CP.16, paragraphs 15–18.

⁴¹ Adopted as document FCCC/SBI/2011/L.36, as amended.

⁴² For the text as adopted, see decision 5/CP.17.

VIII. Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity⁴³

- Activities to be undertaken under the work programme

(Agenda item 8)

1. Proceedings

78. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/MISC.8 and Add.1 and FCCC/SBI/2011/INF.13. Statements were made on behalf of the African Group, AOSIS, the European Union and its member States, the Group of 77 and China, the LDCs, the SICA Parties and the Umbrella Group.

79. At its resumed 1st meeting, the SBI agreed to consider this item in informal consultations facilitated by Mr. Owen-Jones.

80. At the 2nd meeting, Mr. Owen-Jones reported on the consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁴⁴

2. Conclusions

81. The SBI considered the documents prepared for the session⁴⁵ and noted that the outcomes of the workshop to identify challenges and gaps in the implementation of risk management approaches to the adverse effects of climate change, which took place in Lima, Peru, from 10 to 12 October 2011, provide useful inputs into the implementation of the work programme on loss and damage.⁴⁶

82. The SBI decided to recommend a draft decision⁴⁷ on the work programme on loss and damage for adoption by the COP at its seventeenth session (for the text of the decision, see FCCC/SBI/2011/L.35/Add.1).

IX. Matters relating to Article 3, paragraph 14, of the Kyoto Protocol

(Agenda item 9)

1. Proceedings

83. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SB/2011/INF.6 and Corr.1. A representative of one Party made a statement.

84. At its resumed 1st meeting, the SBI agreed to consider this item together with a matter for discussion at the Subsidiary Body for Scientific and Technological Advice (SBSTA) at its thirty-fifth session, agenda item 8, "Matters relating to Article 2,

⁴³ Decision 1/CP.16, paragraphs 26–29.

⁴⁴ Adopted as document FCCC/SBI/2011/L.35.

⁴⁵ FCCC/SBI/2011/MISC.8 and Add.1 and FCCC/SBI/2011/INF.13.

⁴⁶ FCCC/SBI/2011/INF.11.

⁴⁷ For the text as adopted, see decision 7/CP.17.

paragraph 3, of the Kyoto Protocol”, in a joint contact group, co-chaired by Mr. José Romero (Switzerland) and Mr. Eduardo Calvo (Peru).

85. At the 2nd meeting, Mr. Calvo reported on the contact group’s consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁴⁸

2. Conclusions

86. The SBSTA and the SBI, at their thirty-fifth sessions, welcomed with appreciation the organization of the joint workshop to address matters relating to Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol, held on 19 and 20 September 2011 in Bonn.

87. The SBSTA and the SBI acknowledged the lessons learned from the joint workshop referred to in paragraph 86 above, as contained in documents FCCC/SB/2011/INF.6 and Corr.1.

88. The SBSTA and the SBI agreed to continue to discuss matters related to Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol, in a joint contact group to be established by them at their thirty-sixth sessions.

X. Forum on the impact of the implementation of response measures at the thirty-fourth and thirty-fifth sessions of the subsidiary bodies, with the objective of developing a work programme under the Subsidiary Body for Scientific and Technological Advice and the Subsidiary Body for Implementation to address these impacts, with a view to adopting, at the seventeenth session of the Conference of the Parties, modalities for the operationalization of the work programme and a possible forum on response measures⁴⁹

(Agenda item 10)

Proceedings

89. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SB/2011/MISC.4 and Add.1 and FCCC/SB/2011/INF.5. Representatives of six Parties made statements, including statements on behalf of the Group of 77 and China, the European Union and its member States, the Umbrella Group and AOSIS.

90. At the resumed session of its 1st meeting, the SBI agreed to consider this item, together with SBSTA 35 agenda item 7, in a joint SBI/SBSTA forum, co-chaired by Mr. Owen-Jones and Mr. Richard Muyungi (United Republic of Tanzania), Chair of the SBSTA, and co-facilitated by Mr. Romero and Mr. Crispin d’Auvergne (Saint Lucia).

91. At the 2nd meeting, Mr. d’Auvergne reported on the forum proceedings, including on a special event organized in the context of the forum. At the same meeting, the SBI agreed to bring this matter to the attention of the President of the COP for further guidance and finalization by the COP at its seventeenth session.⁵⁰

⁴⁸ Adopted as documents FCCC/SBSTA/2011/L.21–FCCC/SBI/2011/L.29.

⁴⁹ Decision 1/CP.16, paragraph 93.

⁵⁰ For the resulting text, as adopted, see decision 8/CP.17.

XI. Development and transfer of technologies

(Agenda item 11)

1. Proceedings

92. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SB/2011/2 and FCCC/SBI/2011/14.

93. At the resumed 1st meeting, the Chair of the SBI invited Mr. Antonio Pflüger (Germany), Vice-Chair of the Technology Executive Committee (TEC) to make a statement. At the same meeting, the SBI agreed to consider this item together with SBSTA 35 agenda item 5 in a joint contact group, co-chaired by Mr. Carlos Fuller (Belize) and Mr. Zitouni Ould-Dada (United Kingdom).

94. At the 2nd meeting, Mr. Ould-Dada reported on the group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁵¹

2. Conclusions

95. The SBI noted the report of the GEF on the progress made in carrying out the Poznan strategic programme on technology transfer,⁵² including its long-term implementation, as invited by the SBI at its thirty-fourth session.

96. The SBI acknowledged the support provided by the GEF for the implementation of technology transfer pilot projects and for the conduct of technology needs assessments (TNAs). It further acknowledged the progress made in implementing the long-term programme on technology transfer. Furthermore, it urged the GEF and Parties to expedite the process for the early implementation of projects submitted before 30 September 2009.

97. The SBI encouraged non-Annex I Parties to develop and submit project proposals, particularly for technologies for adaptation, to the GEF in line with elements of the long-term programme on technology transfer described in document FCCC/SBI/2011/14, annex, paragraphs 46 and 47. The SBI invited the GEF to raise awareness of the long-term programme on technology transfer.

98. The SBI welcomed the results of the TNAs that are being prepared under the Poznan strategic programme in cooperation with the United Nations Environment Programme (UNEP). The SBI noted information provided orally by the Climate Technology Initiative's Private Financing Advisory Network on its collaboration with UNEP to assess any projects identified under the TNAs to determine their suitability for private-sector investment in order to accelerate implementation.

99. The SBI invited the GEF to support the operationalization and activities of the Climate Technology Centre and Network without prejudging any selection of the host.

100. Pursuant to decision 1/CP.16, paragraph 126, the SBI and the SBSTA considered the report on activities and performance of the TEC for 2011 and agreed to recommend elements for a draft decision on this matter for consideration and adoption by the COP at its seventeenth session. These elements for the draft decision are contained in the annex to document FCCC/SBI/2011/L.34.

⁵¹ Adopted as document FCCC/SBI/2011/L.34.

⁵² FCCC/SBI/2011/14.

XII. Capacity-building under the Convention

(Agenda item 12)

1. Proceedings

101. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/CP/2011/7 and Corr.1 and Add.1 and 2, FCCC/SBI/2011/15, FCCC/SBI/2011/MISC.9, FCCC/SBI/2009/4, FCCC/SBI/2010/20, FCCC/SBI/2010/MISC.6, FCCC/SBI/2009/5, FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2 and FCCC/SBI/2009/MISC.12/Rev.1. A statement was made on behalf of the Group of 77 and China.

102. At its resumed 1st meeting, the SBI agreed to consider this item in a contact group chaired by Mr. Owen-Jones with the assistance of Mr. Maas Goote (The Netherlands).

103. At the 2nd meeting, Mr. Goote reported on the group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁵³

2. Conclusions

104. The SBI, at its thirty-fifth session, decided to recommend a draft decision⁵⁴ for adoption by the COP at its seventeenth session (for the text of the decision see FCCC/SBI/2011/L.37).

XIII. Capacity-building under the Kyoto Protocol

(Agenda item 13)

1. Proceedings

105. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/KP/CMP/2011/3, FCCC/SBI/2011/15, FCCC/SBI/2011/MISC.9, FCCC/SBI/2010/20, FCCC/SBI/2010/MISC.6, FCCC/SBI/2009/4, FCCC/SBI/2009/5, FCCC/SBI/2009/MISC.1, FCCC/SBI/2009/MISC.2 and FCCC/SBI/2009/MISC.12/Rev.1.

106. At its resumed 1st meeting, the SBI agreed to consider this item in a contact group chaired by Mr. Owen-Jones with the assistance of Mr. Goote.

107. At the 2nd meeting, Mr. Goote reported on the group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁵⁵

2. Conclusions

108. The SBI, at its thirty-fifth session, decided to recommend a draft decision⁵⁶ on this matter for adoption by the CMP at its seventh session (for the text of the decision see FCCC/SBI/2011/L.38).

⁵³ Adopted as document FCCC/SBI/2011/L.37.

⁵⁴ For the text as adopted, see decision 13/CP.17.

⁵⁵ Adopted as document FCCC/SBI/2011/L.38.

⁵⁶ For the text as adopted, see decision 15/CMP.7.

XIV. Report of the administrator of the international transaction log under the Kyoto Protocol

(Agenda item 14)

1. Proceedings

109. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. At its resumed 1st meeting, the SBI took note of documents FCCC/KP/CMP/2011/7 and Corr.1.

110. At its 2nd meeting, the SBI considered and adopted the conclusions below.⁵⁷

2. Conclusions

111. The SBI, at its thirty-fifth session, agreed to recommend draft conclusions on this matter for adoption by the CMP at its seventh session (for the text of the conclusions, see FCCC/SBI/2011/L.23).

XV. Amendment of the Kyoto Protocol in respect of procedures and mechanisms relating to compliance

(Agenda item 15)

112. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it document FCCC/KP/CMP/2005/2.

113. At the resumed 1st meeting, the Chair of the SBI announced that he would consult with interested Parties and report on the outcome of these consultations to the SBI at its closing plenary. At the 2nd meeting, the Chair reported that there was agreement to continue to discuss this matter further at the thirty-sixth session of the SBI and to include this item on the provisional agenda for that session.

XVI. Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism

(Agenda item 16)

1. Proceedings

114. The SBI considered this item at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/MISC.2, FCCC/TP/2011/3 and FCCC/KP/CMP/2010/10.

115. At its resumed 1st meeting, the SBI agreed to consider this item in a contact group co-chaired by Mr. Kunihito Shimada (Japan) and Mr. Yaw Bediako Osafo (Ghana).

116. At the 2nd meeting, Mr. Shimada reported on the contact group's consultations. At the same meeting, the SBI considered and adopted the conclusions below.⁵⁸

2. Conclusions

117. The SBI made progress in reaching an agreement with regard to the form and some of the features of the possible appeals body. However, Parties maintained different

⁵⁷ Adopted as document FCCC/SBI/2011/L.23.

⁵⁸ Adopted as document FCCC/SBI/2011/L.30.

interpretations of the mandate for the establishment of the appeals process currently being negotiated.

118. The SBI took note of the revised draft text, as proposed by the co-chairs of the contact group, contained in annex I, while noting that, for the time being, it remained the co-chairs' text. It agreed to continue the consideration of this matter at its next session with a view to forwarding a draft text for consideration by the CMP at its eighth session.

XVII. Administrative, financial and institutional matters

(Agenda item 17)

A. Budget performance for the biennium 2010–2011

(Agenda item 17(a))

Continuing review of the functions and operations of the secretariat

(Agenda item 17(b))

1. Proceedings

119. The SBI considered these sub-items at its resumed 1st meeting and at its 2nd meeting. It had before it documents FCCC/SBI/2011/16, FCCC/SBI/2011/INF.14 and FCCC/SBI/2011/INF.15. Statements were made by a representative of one Party and by the Executive Secretary.

120. At the resumed 1st meeting, the Chair proposed drafting conclusions on these sub-items, with the assistance of the secretariat and in consultation with interested Parties. At its 2nd meeting, the SBI considered and adopted the conclusions below.⁵⁹

2. Conclusions

121. The SBI decided to recommend draft decisions⁶⁰ on administrative, financial and institutional matters for adoption by the COP at its seventeenth session (for the text of the decision, see document FCCC/SBI/2011/L.27/Add.1) and by the CMP at its seventh session (for the text of the decision, see document FCCC/SBI/2011/L.27/Add.2).

B. Implementation of the Headquarters Agreement

(Agenda item 17(c))

1. Proceedings

122. The SBI considered this sub-item at its resumed 1st meeting and at its 2nd meeting. Statements were made by representatives of two Parties as well as by a representative of the Host Government of the secretariat and by the Executive Secretary.

123. At the resumed 1st meeting, the Chair proposed drafting conclusions on this sub-item, with the assistance of the secretariat and in consultation with interested Parties. At its 2nd meeting, the SBI considered and adopted the conclusions below.⁶¹

⁵⁹ Adopted as document FCCC/SBI/2011/L.27.

⁶⁰ For the texts as adopted, see decision 17/CP.17 and 16/CMP.7.

⁶¹ Adopted as document FCCC/SBI/2011/L.28.

2. Conclusions

124. The SBI took note of the information provided by the representative of the Host Government of the secretariat that construction works on the new conference facilities in Bonn will be resumed and that their completion is still expected by the first negotiating session of 2013.

125. The SBI expressed its appreciation to the Host Government and the city of Bonn for their efforts and the investments made in this regard.

126. The SBI reiterated its request to the Host Government and the host city of the secretariat to maintain, in the interim, the arrangements to accommodate the Bonn sessions of the subsidiary bodies and to intensify their efforts to provide a permanent meeting space that is available and adequate to accommodate meetings under the UNFCCC process at present and in the future.

127. The SBI was informed by the representative of the Host Government and the Executive Secretary of the progress made in the completion of the new premises for the secretariat in Bonn, in particular that the first building is to be completed by mid-2012 and that the second building and additional meeting facilities are expected to be completed by 2017. The SBI also noted with concern the difficulties faced by the secretariat owing to the continued need to operate from different locations and encouraged the Host Government to provide office facilities that allow for evolving requirements.

128. The SBI invited the Host Government and the Executive Secretary to report to it at its thirty-sixth session on further progress made on these and other aspects of the implementation of the Headquarters Agreement.

XVIII. Other matters

(Agenda item 18)

129. No other matters were raised.

XIX. Report on the session

(Agenda item 19)

130. At its 2nd meeting, the SBI considered and adopted the draft report on its thirty-fifth session.⁶² At the same meeting, on a proposal by the Chair, the SBI authorized the Rapporteur to complete the report on the session, with the assistance of the secretariat and under the guidance of the Chair.

XX. Closure of the session

131. At the 2nd meeting, a representative of the Executive Secretary provided a preliminary evaluation of the administrative and budgetary implications of the conclusions adopted during the session. This follows decision 16/CP.9, paragraph 20, which requests the Executive Secretary to provide an indication of the administrative and budgetary implications of decisions⁶³ if these cannot be met from existing resources within the core budget.

⁶² Adopted as document FCCC/SBI/2011/L.24.

⁶³ While decision 16/CP.9 refers to “decisions”, it also has implications for conclusions of the subsidiary bodies.

132. The SBI, at its thirty-fifth session, requested a number of activities that require additional resources over and above the core budget for 2012–2013. These include the following:

(a) Under agenda sub-item 4(a), “Work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention”, funding in the amount of EUR 1.7 million is required for seven planned regional training workshops on GHG inventories, mitigation, and vulnerability and adaptation in 2012;

(b) Under agenda sub-item 4(d), “Provision of financial and technical support”, the secretariat has been requested to upgrade the non-Annex I national GHG inventory software. The estimated costs for this upgrade is EUR 250,000;

(c) Under agenda item 8, “Approaches to address loss and damage associated with climate change impacts in developing countries that are particularly vulnerable to the adverse effects of climate change to enhance adaptive capacity - Activities to be undertaken under the work programme”, the secretariat has been requested to support and undertake many activities including organizing several expert meetings and preparing technical reports. The cost of these activities is estimated at EUR 1 million.

133. At the same meeting, closing statements were made by 10 Parties, including statements on behalf of the Group of 77 and China, the European Union and its member States, the Umbrella Group, the African Group, SICA Parties, AOSIS, and the LDCs. In addition, five statements were made on behalf of business and industry NGOs, local government and municipal authorities and youth NGOs, and by representatives of environmental NGOs.

134. Before closing the session, the Chair thanked delegates, the chairs of contact groups and convenors of informal consultations for their contributions. He also thanked the secretariat for its support.

Annex I

[English only]

Co-chair's proposed text

Appeals mechanism

[The Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol,

Recalling decisions 2/CMP.5, paragraph 42, and 3/CMP.6, paragraph 18,

Recalling also decisions 2/CMP.1 and 3/CMP.1,

Cognizant of its decisions 4/CMP.1, 5/CMP.1, 6/CMP.1, 7/CMP.1, 1/CMP.2, 2/CMP.3 and 2/CMP.5,

Recognizing the importance of timely and effective decision-making by the Executive Board of the clean development mechanism on issues related to project activities,

Emphasizing the importance of consistency and correctness in the application of the modalities and procedures of the clean development mechanism,

Wishing to provide for an independent, impartial, fair, equitable, transparent and efficient mechanism to enable review of the decisions of the Executive Board of the clean development mechanism,

1. *Approves and adopts* the procedures and mechanisms relating to appeals against decisions of the Executive Board of the clean development mechanism, as contained in the appendix to this decision;
2. *Agrees* that appeals may be brought before the appeals body¹ at the earliest six calendar months following the adoption of this decision;
3. *Agrees also* that appeals may be brought before the appeals body only with regard to decisions of the Executive Board concluded following the adoption of this decision;
4. *Requests* the Subsidiary Body for Implementation to consider the experience gained with the appeals mechanism with a view to proposing recommendations for modifications or adjustments, if necessary, for consideration by the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol at its tenth session.

¹ Name to be determined.

Appendix

Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism

PART I: THE APPEALS BODY

I. Establishment and powers

1. An appeals body is hereby established that considers appeals against decisions of the Executive Board of the clean development mechanism (CDM) regarding the [approval,] rejection or alteration of requests for the registration of project activities and the issuance of certified emission reductions (CERs).
2. The appeals body shall report annually to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol (CMP) on its deliberations.
3. Subject to the provisions of this decision, taking into account the recommendations made by the Executive Board in document FCCC/CMP/2010/10, the appeals body shall establish the procedure governing appeals, for consideration and approval by the CMP at its ninth session. The appeals body shall also develop its operational modalities on matters relating to the organization of its work, including procedures for the protection of proprietary or confidential information.

II. Membership

4. The CMP shall elect 30 members to the appeals body roster [as follows: [X] member[s] from each of the five United Nations regional groups, [X] member[s] from Parties included in Annex I to the Convention, [X] member[s] from Parties not included in Annex I to the Convention and [X] member[s] from small island developing States].
5. Members shall be elected for a period of four years [and shall be eligible to serve a maximum of [two][X] consecutive terms]. In order to ensure continuity, half of the members shall be elected initially for a term of [X] years and the remaining members shall be elected for the full term of office. Members of the appeals body shall remain in office until their successors are elected.
6. Each constituency referred to in paragraph 4 above shall endeavour to conduct a rigorous selection process in order to ensure that the nominees meet the criteria set out in paragraph 8 below.
7. In making nominations, Parties are invited to recall decision 36/CP.7 and give active consideration to the nomination of women.
8. To be eligible for election as a member, a person shall:
 - (a) Be of high standing and moral character;
 - (b) Possess at least 10 years of relevant experience in international law, administrative law [or in the field of the CDM];
 - (c) Be available at all times and at short notice to hear appeals[;]

[d] Be unaffiliated with any government].

9. A member of the appeals body shall not be a member of the Executive Board, a member or employee of its support structure, designated operational entity or designated national authority, and shall not have served on the Executive Board or in its support structure [for at least seven years] prior to his or her appointment to the appeals body. Members of the appeals body shall not be eligible to serve on the Executive Board of the CDM or in its support structure within for a minimum of [one] year[s] following the completion of their service on the appeal body.

10. A member of the appeals body may resign by notifying the CMP through the Executive Secretary. The resignation shall take effect 90 calendar days from the date of notification.

11. The appeals body may suspend a member in the event of incapacity or misconduct, including breach of the provisions related to conflict of interest as set out in chapter III below, breach of provisions related to confidentiality of information as set out in chapter IV below or a failure to attend two consecutive meetings without proper justification, pending consideration of the matter by the CMP.

12. A member of the appeals body may only be removed by the CMP for reasons outlined in paragraph 11 above.

13. In the event that a member becomes unable to serve on an appeal for which he or she was originally selected, another member shall be selected to replace him or her in accordance with the procedure set out in paragraph 21 below.

14. Members of the appeals body shall be remunerated for their time spent on consideration of appeals in the amount of [XXX].

III. Impartiality and independence

15. A member of the appeals body shall serve in his or her personal capacity and shall enjoy full independence.

16. A member of the appeals body shall swear an oath that he or she shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of proceedings before the appeals body.

17. Should any direct or indirect conflict of interest arise, the member concerned shall immediately recuse himself or herself from the appeal in question.

IV. Internal management

18. Decisions, other than in the context of individual appeals, shall be made by the full membership of the appeals body. For such decisions, X members must be present to constitute a quorum. Decision shall be taken by consensus, whenever possible. If all efforts at reaching consensus have been exhausted and no agreement has been reached, decisions shall be taken by a majority vote of the members present and voting. Members abstaining from voting shall be considered as not voting.

19. The appeals body shall elect its own Chair and Vice-Chair for the term of [x] years.

20. Appeals shall normally be heard by a panel of three members and shall be decided by a majority vote.

21. The members constituting a panel shall be selected on a random basis.

22. The internal discussions, deliberations and voting on, and drafting of, the decision by a panel during an appeal proceeding shall be confidential.

V. Collegiality

23. The members shall remain informed of the decisions, modalities and procedures concerning an appeal as well as the relevant modalities and procedures of the CDM.

24. To ensure consistency and coherence in decision-making, and to draw on the individual and collective expertise of the members, the members of the appeals body shall convene at least once a year to discuss matters of policy, practice and procedure relating to appeals and to the modalities and procedures of the CDM generally. [The ad hoc panel responsible for an appeal shall share their reasoning with the other members of the appeals body after finalizing its decision.]

PART II: GENERAL ISSUES

VI. Transparency and confidential information

25. The decisions of the appeals body shall be issued in writing and shall state the reasons, facts and rules on which they are based.

26. Subject to the provisions of paragraphs 22 above and 27 below, the decisions of the appeals body with regard to individual appeals shall be communicated to the entities involved in the appeal and to the Executive Board of the CDM, and shall be made publicly available.

27. As a general rule, information obtained by the appeals body marked as proprietary or confidential shall not be disclosed without the written consent of the provider of the information, unless the appeals body determines that, in accordance with the CDM modalities and procedures, such information cannot be claimed proprietary or confidential. Provisions with regard to confidential information contained in decision 3/CMP.1, annex, paragraph 6, shall be applicable to the workings of the appeals body.

VII. Administrative and financial support

28. The secretariat of the United Nations Framework Convention on Climate Change shall make the administrative arrangements necessary for the functioning of the appeals mechanism.

29. Staff members of the secretariat assigned to assist the appeals body in the carrying out of its functions [related to the implementation of this decision] shall be independent and impartial, shall avoid direct or indirect conflicts of interest and shall respect the confidentiality of the proceedings before the appeals body.

30. [Reasonable expenses associated with the establishment and overhead costs of the appeals mechanism shall be borne out of the share of proceeds for the clean development mechanism and shall be allocated in a way that ensures the independence and impartiality of the mechanism [and on the basis of a management plan for the mechanism to be developed by the appeals body]. The expenses associated with the consideration of appeals shall be funded through the fees in accordance with paragraph 43 of this appendix.]

VIII. Working language

31. The working language of the appeals body shall be English.

PART III: CONSIDERATION OF APPEALS

IX. Grounds for appeal

32. The appeals body shall be competent to decide on an appeal within the scope of its powers, as set out in paragraph 1 above, on whether the Executive Board:

- (a) Exceeded its jurisdiction or competence;
- (b) Committed an error in procedure, such as to materially affect the decision in the case;
- (c) [Incorrectly] interpreted or applied one or more CDM modalities and procedures [in a way that [is unreasonable] and, if done differently, would have resulted in a materially different outcome];
- (d) [Clearly] erred on a question of fact available to the Executive Board at the time of it reaching its decision, [in a way that [is unreasonable] [and, if done differently, would have resulted in a materially different outcome];
- (e) In reconsidering its decision on remand pursuant to paragraph 34 below, rendered a decision that is inconsistent with the judgement of the appeals body [on the same request for registration or issuance or with the previous ruling of the Executive Board with regard to that request].

33. Subject to provisions of this decision, the appeals body shall establish, in a transparent manner, the criteria for admissibility of appeals.

X. Decisions and orders

- 34.

Option A:

With respect to decisions relating to the grounds of review stipulated in paragraph 33 above, the appeals body may affirm a decision of the Executive Board or remand it back to the Executive Board for reconsideration.

Option B:

With respect to decisions relating to the grounds of review stipulated in paragraphs (a), (b), and (c) of paragraph 32 above, the appeals body may affirm or reverse a decision of the Executive Board.

With respect to decisions relating to the grounds of review stipulated in paragraphs (d) and (e) of paragraph 32 above, the appeals body may affirm, reverse or remand a decision of the Executive Board.

35. Decisions of the appeals body shall be final and binding on the entities referred to in paragraph 38 below and on the Executive Board.

36. In the interests of fairness and orderly procedure, the appeals body may issue procedural orders as necessary and appropriate to assist the functioning of an appeal proceeding.

XI. The record

37. Any document or oral evidence that was available to the Executive Board in connection with its consideration of the decision being appealed shall constitute the record for the appeal in question. The complete record pertaining to the decision of the Executive Board being appealed shall be made available to the appeals body not later than seven calendar days following the receipt of the appeal by the secretariat.

XII. Commencement of an appeal

38. Any Party, project participant [or DOE] directly involved in [or stakeholder or organization referred to in decision 3/CMP.1, annex, paragraph 40(c), which has submitted comments with regard to] a CDM project activity or a proposed CDM project activity with respect to which the Executive Board has [registered or] made a rejection or alteration decision relating to the registration of such a project activity or the issuance of CERs (“petitioners”) may file, individually or jointly, a petition for appeal against such a decision.

39. Multiple appeals can be filed against the same decision, so long as no single petitioner is a signatory to more than one appeal.

40. A petition for appeal shall be filed no later than [45][60] calendar days after the decision of the Executive Board has been made publicly available.

XIII. Time limits

41. As a general rule, the appeals proceedings shall not exceed 90 calendar days from the date a petition is received by the appeals body to the date it issues its final decision.

42. The Executive Board shall reach a decision reconsidered on remand in accordance with the provisions of paragraph 34 above at its first meeting, which will take place at least after 21 calendar days following the receipt of the remand.

XIV. Filing fee

43. Taking into account the costs of the appeals process and the need to deter frivolous appeals, the filing of an appeal shall be subject to a reasonable and not prohibitively expensive fee.]

Annex II

[English only]

Documents before the Subsidiary Body for Implementation at its thirty-fifth session

Documents prepared for the session

FCCC/SBI/2011/8	Provisional agenda and annotations. Note by the Executive Secretary
FCCC/SBI/2011/9	National greenhouse gas inventory data for the period 1990–2009. Note by the secretariat
FCCC/SBI/2011/10	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Note by the secretariat
FCCC/SBI/2011/10/Add.1	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Note by the secretariat. Addendum. Report on the workshop on facilitating the development and long-term sustainability of processes, and the establishment and maintenance of national technical teams, for the preparation of national communications, including greenhouse gas inventories, on a continuous basis
FCCC/SBI/2011/10/Add.2	Progress report on the work of the Consultative Group of Experts on National Communications from Parties not included in Annex I to the Convention. Note by the secretariat. Addendum. Report on the workshop on greenhouse gas inventory hands-on training for the Latin America and Caribbean region
FCCC/SBI/2011/11	Report on the twentieth meeting of the Least Developed Countries Expert Group. Note by the secretariat
FCCC/SBI/2011/12	Report on the expert meeting on the process and the modalities and guidelines for the formulation and implementation of national adaptation plans. Note by the secretariat
FCCC/SBI/2011/13	Synthesis report on the process and the modalities and guidelines for national adaptation plans. Note by the secretariat
FCCC/SBI/2011/14	Report of the Global Environment Facility on the progress made in carrying out the Poznan strategic programme on technology transfer. Note by the secretariat

FCCC/SBI/2011/15	Synthesis report on the implementation of the framework for capacity-building in developing countries. Note by the secretariat
FCCC/SBI/2011/16	Budget performance for the biennium 2010–2011 as at 30 June 2011. Note by the secretariat
FCCC/SBI/2011/INF.8	Status of submission and review of fifth national communications. Note by the secretariat
FCCC/SBI/2011/INF.9	Information on financial support provided by the Global Environment Facility for the preparation of national communications from Parties not included in Annex I to the Convention. Note by the secretariat
FCCC/SBI/2011/INF.10	Support provided to developing country Parties and activities undertaken to strengthen existing and, where needed, establish national and regional systematic observation and monitoring networks. Note by the secretariat
FCCC/SBI/2011/INF.11	Report on the workshop to identify challenges and gaps in the implementation of risk management approaches to the adverse effects of climate change. Note by the secretariat
FCCC/SBI/2011/INF.12	Report on the workshop on promoting risk management approaches on the specific needs and concerns of developing country Parties arising from the impact of the implementation of response measures. Note by the secretariat
FCCC/SBI/2011/INF.13	Synthesis report on views and information on the thematic areas in the implementation of the work programme. Note by the secretariat
FCCC/SBI/2011/INF.14	Status of contributions as at 15 November 2011. Note by the secretariat
FCCC/SBI/2011/INF.15	Report on planned efficiency gains for the biennium 2012–2013. Note by the Executive Secretary
FCCC/SBI/2011/MISC.4	Information by Parties not included in Annex I to the Convention on the detailed costs incurred, including in-kind contributions, for the preparation of their most recent national communications, and on the financial resources received through the Global Environment Facility. Submissions from Parties
FCCC/SBI/2011/MISC.5	Views on elements to be taken into account in developing guidance to the Global Environment Facility. Submissions from Parties
FCCC/SBI/2011/MISC.6 and Add.1	Information on the support provided to developing country Parties and on activities undertaken to strengthen existing, and to establish, national and regional systematic observation and monitoring networks. Submissions from Parties

FCCC/SBI/2011/MISC.7	Views on the process and the modalities and guidelines for national adaptation plans. Submissions from Parties and intergovernmental organizations
FCCC/SBI/2011/MISC.8 and Add.1	Views and information on the thematic areas in the implementation of the work programme. Submissions from Parties and relevant organizations
FCCC/SBI/2011/MISC.9	Activities to implement the framework for capacity-building in developing countries under decision 2/CP.7. Submissions from Parties and relevant organizations
FCCC/SB/2011/2	Report on activities and performance of the Technology Executive Committee for 2011
FCCC/SB/2011/INF.5	Report on the special event held in the context of the forum on the impact of the implementation of response measures at the thirty-fourth sessions of the subsidiary bodies. Note by the secretariat
FCCC/SB/2011/INF.6 and Corr.1	Report on the joint workshop on matters relating to Article 2, paragraph 3, and Article 3, paragraph 14, of the Kyoto Protocol. Note by the secretariat
FCCC/SB/2011/MISC.4 and Add.1	Further views on the elements for the development of a work programme and a possible forum on response measures. Submissions from Parties and relevant organizations
FCCC/TP/2011/7	Identification and implementation of medium- and long-term adaptation activities in least developed countries. Technical paper

Other documents before the session

FCCC/CP/2011/7 and Corr.1 and Add.1 and 2	Report of the Global Environment Facility to the Conference of the Parties. Note by the secretariat
FCCC/KP/CMP/2011/3	Annual report of the Executive Board of the clean development mechanism to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol
FCCC/KP/CMP/2011/7 and Corr.1	Annual report of the administrator of the international transaction log under the Kyoto Protocol. Note by the secretariat
FCCC/KP/CMP/2011/8 and Add.1	Annual compilation and accounting report for Annex B Parties under the Kyoto Protocol for 2011. Note by the secretariat
FCCC/KP/CMP/2010/10	Annual report of the Executive Board of the clean development mechanism to the Conference of the Parties serving as the meeting of the Parties to the Kyoto Protocol

FCCC/KP/CMP/2005/2	Proposal from Saudi Arabia to amend the Kyoto Protocol. Note by the secretariat
FCCC/SBI/2011/7 and Add.1	Report of the Subsidiary Body for Implementation on its thirty-fourth session, held in Bonn from 6 to 17 June 2011
FCCC/SBI/2011/INF.1	Compilation and synthesis of fifth national communications. Executive summary. Note by the secretariat
FCCC/SBI/2011/INF.1/Add.1	Compilation and synthesis of fifth national communications. Note by the secretariat. Addendum. Policies, measures, and past and projected future greenhouse gas emission trends of Parties included in Annex I to the Convention
FCCC/SBI/2011/INF.1/Add.2	Compilation and synthesis of fifth national communications. Note by the secretariat. Addendum. Financial resources, technology transfer, vulnerability, adaptation and other issues relating to the implementation of the Convention by Parties included in Annex I to the Convention
FCCC/SBI/2011/INF.2	Compilation and synthesis of supplementary information incorporated in fifth national communications submitted in accordance with Article 7, paragraph 2, of the Kyoto Protocol. Note by the secretariat
FCCC/SBI/2011/MISC.2	Views on procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism. Submissions from Parties and relevant organizations
FCCC/SBI/2010/17	Synthesis report on the national adaptation programme of action process, including operation of the Least Developed Countries Fund. Note by the secretariat
FCCC/SBI/2010/20	Synthesis report on the implementation of the framework for capacity-building in developing countries. Note by the secretariat
FCCC/SBI/2010/26	Report on the eighteenth meeting of the Least Developed Countries Expert Group. Note by the secretariat
FCCC/SBI/2010/MISC.6	Activities to implement the framework for capacity-building in developing countries under decision 2/CP.7. Submissions from Parties and relevant organizations
FCCC/SBI/2010/MISC.9	Information on the preparation and implementation of national adaptation programmes of action, including on accessing funds from the Least Developed

	Countries Fund. Submissions from Parties and relevant organizations
FCCC/SBI/2009/4	Analysis of progress made in, and the effectiveness of, the implementation of the framework for capacity-building in developing countries in support of the second comprehensive review of the capacity-building framework. Note by the secretariat
FCCC/SBI/2009/5	Synthesis of experiences and lessons learned in the use of performance indicators for monitoring and evaluating capacity-building at the national and global levels. Note by the secretariat
FCCC/SBI/2009/MISC.1	Information on experiences and lessons learned in the use of performance indicators for monitoring and evaluating capacity-building at the national and global levels. Submissions from Parties and intergovernmental organizations
FCCC/SBI/2009/MISC.2	Additional or updated information and views relevant to the completion of the second comprehensive review of the capacity-building framework. Submissions by Parties
FCCC/SBI/2009/MISC.12/Rev.1	Submissions from the United Republic of Tanzania on behalf of the Group of 77 and China and from Sweden on behalf of the European Union and its Member States on completion of the second comprehensive review of the capacity-building framework in developing countries under the Convention and the Kyoto Protocol
FCCC/TP/2011/3	Procedures, mechanisms and institutional arrangements for appeals against the decisions of the Executive Board of the clean development mechanism. Technical paper
